

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

SONICSOLUTIONS ALGAE CONTROL, LLC,)	C.A. No. 3:21-cv-30068-MGM
SONIC SOLUTIONS, LLC, and)	
ALGAECONTROL.US LLC,)	
Plaintiffs,)	PLAINTIFFS' MEMORANDUM
)	IN RESPONSE TO
v.)	DEFENDANTS'
)	MOTION TO MODIFY
)	SCHEDULING ORDER
DIVERSIFIED POWER INTERNATIONAL, LLC,)	
ANTONIO TRIGIANI, and)	
HYDROBIOSCIENCE, LLC,)	
Defendants.)	

The motion of Defendants Diversified Power International, LLC and Antonio Trigiani (“Defendant Trigiani”) to modify this Court’s Scheduling Order is, at best, premature.

Pending before the Court is Plaintiffs’ Motion to Compel discovery responses (“Motion to Compel”), the rulings on which will likely impact significantly the course of discovery in this matter. At this time, and notwithstanding Defendants’ recent supplementation of their document production responses, those responses to the most important document requests that Plaintiffs have propounded remain wholly inadequate. These include, by way of example, requests for internal communications and communications with third parties concerning the subject matter of this litigation (Request No. 1, 34) and requests for documents concerning communications with and sales to SSAC dealers and customers (Requests No. 24, 29), which responses Defendants state they are “in process of supplementing,” Dkt. 99 at 2. Defendants apparently “anticipate producing the documents” responsive to Request No. 1 “on or before April 8, 2022,” Dkt. 99 at 4, but do not commit themselves to any particular deadline for its other anticipated supplemental productions.

Meaningful depositions dependent upon disclosure of relevant documents have yet to be taken. While Plaintiffs' counsel have scheduled depositions of seven witnesses for the week of April 18 in Tennessee, they have done so recognizing that some of those depositions – including the deposition of the most central witness to this matter, Defendant Trigiani – may need to be continued pending full document production by Defendants. We do not know at this time, however, when that will occur.

Extension of the discovery deadlines and modification of the Court's scheduling order will almost certainly be necessary, but what should be the modified deadline will be difficult to assess until Defendants fulfill their document production responsibilities. Plaintiffs also wish to point out that the current scheduling order, as jointly proposed by the parties and reflecting the May 6 fact discovery deadline, was developed with the understanding that Plaintiffs' lead attorney will be hosting his youngest daughter's wedding at their family home next month, on May 21, an event that has been planned for more than one year. As defendants' counsel knows, if any discovery extension is granted, Plaintiffs will be seeking to avoid depositions in the week preceding and the week following the May 21 weekend due to the need to prepare for the wedding and any remaining depositions. Plaintiffs' counsel thus believes that it will be imprudent to set a new scheduling order until Defendants' discovery obligations are resolved and all parties' calendars, including the Court's, are fairly considered.

For these reasons, Plaintiffs request that the Court reserve consideration of a new scheduling order pending resolution of Plaintiffs' motion to compel and related discovery issues.

Respectfully submitted,

Plaintiffs:

**SONICSOLUTIONS ALGAE CONTROL, LLC,
SONIC SOLUTIONS, LLC, and
ALGAECONTROL.US LLC**

By Their Attorneys,

/s/ James C. Duda

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Dated: April 4, 2022

CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system on April 4, 2022, will be sent electronically to all registered participants as identified on the Notice of Electronic Filing (“NEF”) and paper copies will be sent to those indicated as non-registered participants on the date of its filing.

/s/ Lauren C. Ostberg

Lauren C. Ostberg

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